

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Foster	Team: Team # 5	CCRB Case #: 200703011	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/02/2007 4:00 PM	Location of Incident: § 87(2)(b) and § 87(2)(b) inside the 44th Precinct stationhouse		Precinct: 44	18 Mo. SOL 9/2/2008	EO SOL 9/2/2008
Date/Time CV Reported Sat, 03/03/2007 3:40 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 03/03/2007 3:40 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Jeannette Rivera	03561	933259	044 PCT
2. SGT Edson Garcia	03164	900340	044 PCT
3. POM Edwin Perez	29705	927717	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Derrick Lambert	19011	921482	044 PCT
2. SGT Santos Roman	03275	911558	044 PCT
3. POM Juan Mora	11885	920626	044 PCT
4. POM Juan Ovalle	14054	916374	044 PCT
5. POM Ruben Velazquez	30744	894416	044 PCT
6. POM Cedric Green	15885	926907	044 PCT
7. POF Yudelca Burgos	08947	941267	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edwin Perez	Abuse: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Edwin Perez stopped § 87(2)(b)	§ 87(2)(b)
B.POF Jeannette Rivera	Abuse: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Jeannette Rivera stopped § 87(2)(b)	§ 87(2)(b)
C.POM Edwin Perez	Abuse: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Edwin Perez searched the property of § 87(2)(b)	§ 87(2)(b)
D.POF Jeannette Rivera	Abuse: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Jeannette Rivera searched § 87(2)(b)	§ 87(2)(b)
E.POF Jeannette Rivera	Abuse: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Jeannette Rivera strip-searched § 87(2)(b)	§ 87(2)(b)
F.POM Edwin Perez	Abuse: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Edwin Perez refused to provide his name and/or shield number to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G.SGT Edson Garcia	Abuse: Inside the 44th Precinct stationhouse, Sergeant Edson Garcia authorized the strip search of § 87(4-b), § 87(2)(g)	
	§ 87(4-b), § 87(2)(g)	
§ 87(4-b), § 87(2)(g)	§ 87(4-b), § 87(2)(g)	

Synopsis

On March 2, 2007, at approximately 4:00 p.m., § 87(2)(b) was walking home from the grocery store. When § 87(2)(b) reached the corner of § 87(2)(b) and § 87(2)(b) in the Bronx, an unmarked blue police car pulled up and Police Officers Edwin Perez and Jeannette Rivera approached her. PO Perez grabbed the hood of § 87(2)(b)'s coat, while PO Rivera grabbed § 87(2)(b)'s arm (**allegations A and B**). As the two officers grabbed § 87(2)(b) they asked her where she was going. § 87(2)(b) explained that she was going home. PO Rivera removed § 87(2)(b)'s coat and PO Perez searched the pockets of the coat (**allegations C and D**). The officers accused § 87(2)(b) of having entered a nearby residential building. § 87(2)(b) denied having entered the building. PO Rivera searched the pockets of § 87(2)(b)'s sweatpants and then pulled the sweatpants down to her knees (**allegation E**). § 87(2)(b) was wearing pajama pants under her sweatpants, so her skin was not exposed. PO Rivera handcuffed § 87(2)(b). § 87(2)(b) asked PO Perez for his name and shield number, but PO Perez said, "You don't need it" (**allegation F**). The officers took § 87(2)(b) to a marked police van operated by PO Derrick Lambert and Sgt. Edson Garcia. Sgt. Garcia and PO Lambert then transported § 87(2)(b) to the 44th Precinct stationhouse. At the 44th Precinct stationhouse, Sgt. Garcia instructed PO Yudelca Burgos to take § 87(2)(b) to the bathroom and search her to see if she had "anything on her" (**allegation G**). PO Burgos took § 87(2)(b) to the bathroom and strip-searched her. § 87(2)(b) was released from the stationhouse with a Desk Appearance Ticket § 87(2)(a) 160.50. § 87(4-b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b)

On March 3, 2007, § 87(2)(b) filed this complaint with the CCRB via the call processing system (encl. 6a-b). On March 5, 2007, § 87(2)(b) filed a written complaint regarding this incident with the 44th Precinct (encl. 7a-b). On March 12, 2007, § 87(2)(b) filed a Notice of Claim against the City of New York (encl. 8a-c). On March 13, 2007, § 87(2)(b) was interviewed at the CCRB (encl. 9a-f). On § 87(2)(b) On August 31, 2007, § 87(2)(b) viewed three photo arrays of potential subject officers (encl. 11a-t). § 87(2)(g)

§ 87(2)(b) a § 87(2)(b)-old black female, is 5'3" tall and weighs 140 pounds. On March 2, 2007, § 87(2)(b) was wearing a black hooded coat, gray sneakers, pink sweatpants, and a brown and green top. At approximately 4:00 p.m. on the day of the incident, § 87(2)(b) went to a grocery store on § 87(2)(b) in the Bronx, § 87(2)(b). § 87(2)(b) lives at § 87(2)(b)

§ 87(2)(b) § 87(2)(b)
§ 87(2)(b) was alone and went directly to the grocery store from her house. At the store, § 87(2)(b) purchased a soda. § 87(2)(b) then walked back toward her building, but was walking slowly because she was not feeling well and § 87(2)(b) at that point is on an incline. § 87(2)(b) § 87(2)(b) had been hospitalized for dehydration.

§ 87(2)(b) did not enter any other buildings as she walked. An unmarked blue police car came to a stop at the corner of § 87(2)(b) and § 87(2)(b) on the same side of the street as § 87(2)(b). Three officers were inside the car, but only two got out. The driver, whom § 87(2)(b) identified from a photo array as PO Ruben Velazquez, stayed inside the car. One female officer, identified through investigation as PO Jeanette Rivera, and one male officer, identified through investigation as PO Edwin Perez, exited the car and approached § 87(2)(b). Both of the officers were in uniform. PO Perez grabbed the hood of § 87(2)(b)'s coat, causing it to pull off. The hood is detachable, so the coat was not damaged in this process. PO Rivera grabbed § 87(2)(b)'s arm and led her over to the wall of a nearby building. At the side of the building, § 87(2)(b) was facing away from the wall. PO Rivera was in front of her and PO Perez was to the side. As they initially grabbed her, the officers asked § 87(2)(b) where she was going and she stated that she was going home and had just come from the store. PO Rivera removed § 87(2)(b)'s coat and PO Perez searched the inside and outside pockets of the coat. The officers asked § 87(2)(b) "What store? You just came out of the building here." § 87(2)(b) responded, "What building? I have my soda right here." The officers said, "We saw you come out of the building." § 87(2)(b) then said, "What building? I could take you to the store I just came out of." The officers responded, "No. Just turn around and put your hands behind your back." Both officers talked the same amount during this exchange. As the exchange proceeded, PO Rivera searched the pockets of § 87(2)(b)'s sweatpants, then pulled the pants down to slightly above her knees. § 87(2)(b) was wearing pajama pants underneath the sweatpants.

PO Rivera also removed § 87(2)(b)'s shoes and felt underneath her shirt. When PO Rivera felt underneath her shirt, § 87(2)(b) asked the officer if she wanted to take her inside the nearby residential building. At that point, however, PO Ruben Velazquez got out of the unmarked car and said, "Just cuff her." PO Rivera placed § 87(2)(b) in handcuffs. § 87(2)(b) asked the officers for their names and shield numbers, addressing her request to all of the officers. PO Perez responded, "You don't need it." The other two officers did not respond in any way.

The officers led § 87(2)(b) to the unmarked car and drove her to a marked police van parked in front of a post office near the 44th Precinct stationhouse. PO Rivera was sitting in the back seat of the car with § 87(2)(b). PO Velazquez was driving, and PO Perez was in the front passenger's seat. § 87(2)(b) asked the officers why she was being arrested, and they responded, "You'll find out when we get to the precinct." At the marked van, two additional uniformed officers, identified through investigation as PO Derrick Lambert and Sgt. Edson Garcia, took § 87(2)(b)'s information and placed her in the back of the van. One male was already in the back of the van. The officers drove § 87(2)(b) around the corner to the 44th Precinct stationhouse. PO Lambert and Sgt. Garcia led § 87(2)(b) into the stationhouse and to the desk. Sgt. Garcia called over a uniformed female officer, identified by § 87(2)(b) as PO Yudelca Burgos in her photo array, who was standing behind the desk. § 87(2)(b) could not tell what PO Burgos's role was behind the desk. Sgt. Garcia said to PO Burgos, "Take her to the bathroom and search her."

PO Burgos led § 87(2)(b) to the bathroom, which is across from the desk. No one else was inside the bathroom and PO Burgos shut the door after they entered the room. PO Burgos asked § 87(2)(b) if she "had anything," and § 87(2)(b) stated that she did not. PO Burgos then instructed § 87(2)(b) to remove her shoes, so she did so. PO Burgos also instructed § 87(2)(b) to lift up her shirt and bra, and § 87(2)(b) did so. PO Burgos told § 87(2)(b) to lower her pants to her ankles, pull down her underwear, and jump up and down. § 87(2)(b) complied with PO Burgos's instructions. Nothing was found, so PO Burgos told § 87(2)(b) to put her clothing back on and took her back out to the hallway.

§ 87(2)(b) was handcuffed to a bench outside the holding cells because the cells were full of male prisoners. § 87(2)(b) saw PO Rivera while she was at the stationhouse, but did not have any further interaction with her. At approximately § 87(2)(b) § 87(2)(b) was released with a Desk Appearance

Ticket § 87(2)(a) 160.50. As PO Lambert handed § 87(2)(b) the Desk Appearance Ticket, he said, “Tell the judge what you want to tell him.”

In her written complaint regarding this incident, the second complaint she filed, § 87(2)(b) did not mention being strip-searched either on the street or at the stationhouse.

Results of Investigation

Civilian Witnesses

In her written complaint regarding this incident, § 87(2)(b) listed a witness named § 87(2)(b). During her photo array, § 87(2)(b) stated that § 87(2)(b) witnessed only the portion of the incident in which officers transferred her from the unmarked car to the van. § 87(2)(b) did not witness the initial stop. § 87(2)(b) was unable to provide § 87(2)(b) last name. According to the New York CityMap and U.S. Postal Service web site, the address listed for § 87(2)(b) § 87(2)(b) in the Bronx, is not a valid address.

Police Officer Statements

Police Officer Jeannette Rivera (44th Precinct), Subject Officer

PO Rivera did not make any memo book entries related to this incident, nor did she make any memo book entries reflecting her vehicle assignment or direct partners on the day of the incident (encl. 12a-b). On April 26, 2007, and March 28, 2008, PO Rivera was interviewed at the CCRB (encl. 12c-d and 12e-f, respectively).

PO Rivera, a § 87(2)(b)-old Hispanic female, is 5’4” tall and weighs 140 pounds. On March 2, 2007, PO Rivera’s tour of duty lasted from 12:00 p.m. until 8:35 p.m. PO Rivera was assigned to the SNEU Team, but could not remember with whom she worked. PO Rivera was in uniform and was in an unmarked vehicle.

PO Rivera did not recall making any memo book entries related to this incident, but did remember the incident. At the time of the incident, unidentified officers from the SNEU team stopped § 87(2)(b). PO Rivera was not present at that time. The officers called PO Rivera to the scene via point-to-point radio and asked her to come and conduct a “safety search” – commonly known as a field search – at § 87(2)(b) and § 87(2)(b) in the Bronx. PO Rivera stated that a safety search consists of patting over the outside of the pockets and around the waistband for bulges. The purpose of the search is to ensure that the individual has no weapons. PO Rivera stated that she was called to conduct the search because the person being stopped, identified through investigation as § 87(2)(b) was female, and no female officers were present for the stop. PO Rivera and the officer or officers in the vehicle with her drove to the location. When PO Rivera arrived, § 87(2)(b) was yelling, “I went to visit my brother in that building. My brother hangs out there.” § 87(2)(b) was also cursing and “being disrespectful,” but PO Rivera could not remember exactly what she was saying. PO Rivera did not recognize a photograph of § 87(2)(b) but described her as a black female who was wearing pink sweatpants and a jacket. The officers who conducted the stop informed PO Rivera that § 87(2)(b) was being arrested § 87(2)(a) 160.50. PO Rivera asked § 87(2)(b) if she had anything sharp, and § 87(2)(b) stated that she did not. § 87(2)(b) began to take off her own jacket without being instructed to do so, but PO Rivera told her that this was not necessary and that she would conduct the search.

PO Rivera conducted the “safety search” as described above and did not feel any suspicious bulges. PO Rivera did not at any point feel inside § 87(2)(b)’s clothing and did not feel inside her pockets. PO Rivera did not remove any of § 87(2)(b)’s clothing on the street, and specifically, did not pull § 87(2)(b)’s pants down to her knees. PO Rivera could not recall if she removed § 87(2)(b)’s shoes on the street. An officer handcuffed § 87(2)(b) and she was transported to the 44th Precinct stationhouse. PO Rivera could not remember who transported § 87(2)(b) to the stationhouse. PO Rivera did not recall any further interaction with § 87(2)(b). To PO Rivera’s knowledge, § 87(2)(b) was not strip-searched at the stationhouse, and PO Rivera did not personally strip-search § 87(2)(b). PO Rivera stated that there would have been no reason to strip-search § 87(2)(b) under the circumstances, according to what she

observed. PO Rivera had not had any previous interaction with § 87(2)(b) PO Rivera was not aware of how it was verified that § 87(2)(b) did not live in the building in which she was charged with § 87(2)(a) 160.50

When asked about the lack of any memo book entries related to this incident or her vehicle assignment on the day of the incident, PO Rivera stated that she does not typically make such entries. PO Rivera only makes memo book entries regarding incidents in which she completes the arrest paperwork.

Police Officer Ruben Velazquez (44th Precinct), Witness Officer

PO Velazquez did not make any memo book entries related to this incident (encl. 13a-b). On July 18, 2007, PO Velazquez was interviewed at the CCRB (encl. 14a-b).

PO Velazquez, a § 87(2)(b)-old Hispanic male, is 6' tall and weighs 250 pounds. On March 2, 2007, PO Velazquez worked from 11:00 a.m. until 7:35 p.m. PO Velazquez was assigned to the 44th Precinct SNEU team and worked with PO Perez on the apprehension team. PO Velazquez was in uniform and was assigned unmarked § 87(2)(e), § 87(2)(f), which is a Chevrolet sedan. PO Velazquez could not remember where he was sitting in the vehicle.

PO Velazquez did not recall this incident and did not recognize a photograph of § 87(2)(b) When the investigator described the incident, PO Velazquez did not recall participating in any similar incident. According to PO Velazquez's understanding of the SNEU team's operating procedures, it is standard for officers to call a female officer to the scene to frisk females who are stopped.

Police Officer Edwin Perez (44th Precinct), Subject Officer

PO Perez did not make any memo book entries related to this incident (encl. 15a-c). On July 18, 2007, PO Perez was interviewed at the CCRB (encl. 16a-b). PO Perez, a § 87(2)(b)-old Hispanic male, is 5'10" tall and weighs 185 pounds. On March 2, 2007, PO Perez worked from 12:00 p.m. until 8:35 p.m. PO Perez was assigned to the 44th Precinct SNEU team's apprehension team with PO Velazquez and PO Rivera. PO Perez was in uniform and was assigned unmarked § 87(2)(e), § 87(2)(f). PO Perez could not remember where he was sitting in the vehicle.

PO Perez did not recall this incident and did not recognize a photograph of § 87(2)(b) PO Perez did not recall stopping anyone in front of § 87(2)(b) on the day of the incident. PO Perez reviewed the arrest stamp and still did not recall the incident. When the investigator described the incident, PO Perez did not recall participating in any similar incident. PO Perez stated that there are often two SNEU apprehension teams operating at the same time, but he could not remember if this was the case on the day of the incident. PO Perez reviewed the roll call for the day of the incident, but this did not assist him in determining whether there was another apprehension team.

According to his understanding of the SNEU team's operating procedures, it is standard for officers to call a female officer to the scene to frisk females who are stopped.

Police Officer Juan Mora (44th Precinct), Witness Officer

PO Mora did not make any memo book entries related to this incident (encl. 17a-b). On June 28, 2007, PO Mora was interviewed at the CCRB (encl. 18a-b). PO Mora, a § 87(2)(b)-old Hispanic male, is 5'11" tall and weighs 185 pounds. On March 2, 2007, PO Mora's tour of duty lasted from 12:00 p.m. until 8:35 p.m. PO Mora was in plainclothes on the day of the incident and was assigned to be the SNEU team's observation post. PO Mora was in an unmarked motor vehicle and could not remember who he was working with even after reviewing the roll call. PO Mora further stated that members of the SNEU team often switch partners over the course of a tour.

PO Mora did not recall this incident and did not recognize a photograph of § 87(2)(b) PO Mora conducted observation at different locations throughout his tour and could not remember specifically where they were, nor did he note the locations in his memo book.

Police Officer Juan Ovalle (44th Precinct), Witness Officer

PO Ovalle did not make any memo book entries related to this incident (encl. 19a-b). On August 23, 2007, PO Juan Ovalle was interviewed at the CCRB (encl. 20a-b). PO Ovalle, a § 87(2)(b)-old Hispanic male, is 5'10" tall and weighs 207 pounds. On March 2, 2007, PO Ovalle's tour of duty lasted from 12:00 p.m. until 8:35 p.m. PO Ovalle was an observation officer for the SNEU team and worked in plainclothes with PO Mora. The two officers were in an unmarked police vehicle.

PO Ovalle did not recognize a photograph of § 87(2)(b) and did not remember this incident.

Police Officer Cedric Green (44th Precinct), Witness Officer

PO Green did not make any memo book entries related to this incident (encl. 21a-b). On August 24, 2007, PO Green was interviewed at the CCRB (encl. 22a-b). PO Green, a § 87(2)(b)-old black male, is 5'6" tall and weighs 170 pounds. On March 2, 2007, PO Green's tour of duty lasted from 12:00 p.m. until 8:35 p.m. PO Green initially stated that he was assigned to the SNEU catch car with Sgt. Diaz and PO Tirado, as reflected in his memo book entry. PO Green worked in uniform and was in an unmarked § 87(2)(e), § 87(2)(f)

The investigator presented a copy of the roll call for the day of the incident, which indicates that PO Green was working but does not have any record of Sgt. Diaz or PO Tirado working on the SNEU team. PO Green stated that the discrepancy could be due to a mistake in his memo book entry. PO Green did not recall this incident and did not recognize a photograph of § 87(2)(b). When the investigator described the incident, PO Green did not remember it.

Sergeant Edson Garcia (44th Precinct), Subject Officer

Sgt. Garcia did not make any memo book entries related to this incident (encl. 23a-b). On June 28, 2007, Sgt. Garcia was interviewed at the CCRB (encl. 24a-b).

Sgt. Garcia, a § 87(2)(b)-old Hispanic male, is 5'8" tall and weighs 200 pounds. On March 2, 2007, Sgt. Garcia's tour of duty lasted from 12:00 p.m. until 8:57 p.m. Sgt. Garcia could not remember who he was working with on the day of the incident, and a review of the roll call did not help him identify his partner or partners. Sgt. Garcia was in uniform and stated that he believes he was using a motor vehicle, but does not remember if the vehicle was marked or unmarked.

Sgt. Garcia did not initially recall this incident and did not recognize a photograph of § 87(2)(b). When the investigator described the incident, Sgt. Garcia did not initially remember it. However, when the investigator showed Sgt. Garcia the command log for the day of the incident, he stated that the arrest stamp for § 87(2)(b) was in his handwriting. After seeing this, Sgt. Garcia recalled interacting with § 87(2)(b) whom he described as a black female who was arrested § 87(2)(a) 160.50. Sgt. Garcia and PO Lambert transported § 87(2)(b) to the stationhouse, but did not actually stop her. Rather, officers from the SNEU team dropped § 87(2)(b) off with Sgt. Garcia and PO Lambert. Sgt. Garcia was in the passenger's seat of the vehicle, which was stopped in the vicinity of § 87(2)(b) and § 87(2)(b) and could not remember which officers took § 87(2)(b) into custody. Sgt. Garcia brought § 87(2)(b) into the stationhouse and she was processed § 87(2)(a) 160.50. Sgt. Garcia stated that § 87(2)(b)'s pockets were searched for weapons, but did not remember there being any reason to conduct a strip search. Sgt. Garcia did not authorize a strip search of § 87(2)(b) and stated that, when he does authorize strip searches, he notes them in the command log and instructs the officers who conduct them to make notations in their memo books. Sgt. Garcia stated that the basic search of prisoners is conducted in front of the desk. Sgt. Garcia did not know who conducted the search of § 87(2)(b) but stated that it would have been a female officer.

When asked if it is standard procedure on the SNEU team to call a female officer to do a frisk of a female on the street, Sgt. Garcia stated that this depends on the crime. For a crime such as a robbery, the officers present, male or female, conduct the frisk immediately.

Sergeant Santos Roman (44th Precinct), Witness Officer

Sgt. Roman did not make any memo book or command log entries related to this incident, but was assigned as the desk officer at the 44th Precinct at the time of the incident (see roll call, encl. 32a, and memo book, encl. 28a). On April 23, 2007, Sgt. Roman was interviewed at the CCRB (encl. 29a-b). Sgt. Roman did not remember this incident, denied authorizing a strip search of § 87(2)(b) and stated that the handwriting in § 87(2)(b)'s arrest stamp was not his.

Police Officer Derrick Lambert (44th Precinct), Witness Officer

PO Lambert made one memo book entry related to this incident (encl. 25a-c). At 4:30 p.m., § 87(2)(b) was arrested. At 5:30 p.m., PO Lambert began processing the day's arrests. PO Lambert also completed § 87(2)(b)'s criminal complaint report (encl. 26a-b). § 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

On April 25, 2007, PO Lambert was interviewed at the CCRB (encl. 27a-b). PO Lambert, a § 87(2)(b)-old black male, is 5'8" tall and weighs 180 pounds. On March 2, 2007, PO Lambert's tour of duty lasted from 12:00 p.m. until 8:35 p.m. PO Lambert was assigned to the SNEU team's prisoner van, which is marked, and was in uniform. PO Lambert stated that PO Jeanette Rivera worked with him in the prisoner van.

At the time of the incident, PO Lambert was at the 44th Precinct stationhouse when § 87(2)(b) was brought in by PO Mora and Sgt. Garcia. PO Lambert did not see if § 87(2)(b) was taken anywhere else in the stationhouse before being taken to a holding cell. PO Lambert did not see § 87(2)(b) interacting with any female officers when she arrived at the stationhouse. PO Lambert processed § 87(2)(b)'s arrest, but had not seen her before she was brought into the stationhouse. PO Lambert's only interaction with § 87(2)(b) occurred when he informed her that he was assigned to process her arrest and that he would attempt to give her a Desk Appearance Ticket. PO Lambert stated that he is not aware if § 87(2)(b) who was charged § 87(2)(a) 160.50, was strip-searched at the stationhouse. PO Lambert could not remember which officer was at the desk when § 87(2)(b) arrived at the stationhouse.

Police Officer Yudelca Burgos (44th Precinct; since transferred to Bronx Court Section), Witness Officer

PO Burgos did not make any memo book entries related to this incident (encl. 30a-b). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) PO Burgos could not remember if she was in uniform or plainclothes.

On September 28, 2007, PO Burgos was interviewed at the CCRB (encl. 31a-b). PO Burgos, a § 87(2)(b)-old Hispanic female, is 5'5" tall and weighs 120 pounds. On March 2, 2007, PO Burgos worked from 3:30 p.m. until 12:00 a.m. PO Burgos did not remember this incident or recognize a photograph of § 87(2)(b) and did not remember conducting a strip search on the day of the incident. PO Burgos could not say at what time she actually left the 44th Precinct stationhouse for Lefrak City, where the Medical Nursing Division is located. PO Burgos reviewed the 44th Precinct Roll Call, which indicates that she was assigned to a foot post, and stated that the roll call simply did not reflect her change of assignment. PO Burgos could not remember if she had conducted a strip search at any point during her tenure in the NYPD. PO Burgos stated that she would not necessarily note conducting a strip search in her memo book because, in her words, "they don't tell us to do that." PO Burgos first became aware of § 87(2)(b)'s complaint when she received the notification for her CCRB interview.

Police Department Documents

Command Log and Prisoner Holding Pen Roster

According to the command log and holding pen roster (encl. 33-34), § 87(2)(b) arrived at the stationhouse at 4:40 p.m. Her apparent physical and mental condition was described as "apparently normal." There is no notation indicating that § 87(2)(b) was strip-searched.

44th Precinct Roll Call

According to the roll call (encl. 32a-m), Sgt. Garcia was the SNEU supervisor and worked from 12:00 p.m. until 8:57 p.m. PO Velazquez, PO Ovalle, PO Mora, PO Perez, and PO Rivera were members of the SNEU team and worked from 12:00 p.m. until 8:35 p.m. PO Green is listed near the rest of the SNEU team, but his assignment is not clearly indicated. PO Burgos's tour is listed on the roll call as 3:00 p.m. to 11:35 p.m., and her assignment is listed as "Post 280 E 161st." PO Lambert is not listed in the roll call.

Disposition of Criminal Charge

§ 87(2)(a) 160.50

Notice of Claim

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim against the City of New York (encl. 8a-c). § 87(2)(b) is claiming five million dollars in damages. § 87(2)(b), § 87(2)(g)

Civilian CCRB and Criminal Conviction History

This is § 87(2)(b)'s first complaint with the CCRB (encl. 4). § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Police Officer CCRB History

PO Rivera has four years of tenure and no previously substantiated CCRB complaints (encl. 3a). Sgt. Garcia has 15 years of tenure and no previously substantiated CCRB complaints (encl. 3b). PO Perez has seven years of tenure and no previously substantiated CCRB complaints (encl. 3c).

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) did not recognize a photograph of PO Perez in her photo array. However, PO Perez's memo book entry indicates that he was working with PO Rivera and PO Velazquez at the time of the incident. § 87(2)(b) described the officer who grabbed the hood of her coat as a Hispanic male who was 5'9" tall and heavyset. PO Perez, a Hispanic male, is 5'10" tall and weighs 185 pounds.

In her interview, § 87(2)(b) described the officer who drove the unmarked car as a light-skinned Hispanic male who was 6'1" tall and of medium build. PO Velazquez, a Hispanic male, is six feet tall and weighs 250 pounds. In her photo array, § 87(2)(b) recognized PO Velazquez's photograph and stated that he was the officer who drove the unmarked car.

§ 87(2)(b) gave PO Rivera's name and shield number in her written complaint, and she gave PO Rivera's name in her complaint on the call processing system.

PO Lambert and Sgt. Garcia confirmed their respective roles in this incident. § 87(2)(b) also identified Sgt. Garcia in her photo array as the officer who instructed PO Burgos to search her in the bathroom.

During her photo array, § 87(2)(b) stated that she recognized the officer pictured in Array 1, Photograph 4 (PO Yudelca Burgos) as the officer who strip-searched her at the 44th Precinct stationhouse. § 87(2)(b) then stated that the officer in Array 1, Photograph 5, appeared to her to be the same officer. § 87(2)(g) Although PO Burgos's memo book indicates that she was reassigned § 87(2)(b) PO Burgos did not note the time at which she actually left the stationhouse. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that the officer in Array 3, Photograph 3 (PO Ovalle), looked familiar, but she could not remember if he was involved in this incident. § 87(2)(b) recognized the officer in Array 4, Photograph 2 (PO Ruben Velazquez), as the officer who drove the car that initially stopped her. § 87(2)(b) recognized the officer in Array 4, Photograph 6 (Sgt. Garcia), as the officer who directed PO Burgos to search her inside the 44th Precinct stationhouse. § 87(2)(b) stated that Sgt. Garcia instructed PO Burgos to take her to the bathroom and search her to see if she had “anything on her.”

Assessment of Evidence

§ 87(2)(g) Whereas § 87(2)(b) alleged that PO Rivera was one of the officers who stopped her, PO Rivera stated that she was called to the location via point-to-point radio and did not see how § 87(2)(b) was initially stopped. PO Velazquez and PO Perez did not remember the incident. § 87(2)(b) alleged that PO Rivera searched her pockets, felt underneath her shirt, and pulled her sweatpants down to her knees. PO Rivera denied all of these allegations and claimed that she merely frisked § 87(2)(b). Sgt. Garcia denied authorizing a strip search of § 87(2)(b) at the 44th Precinct stationhouse, and PO Burgos did not remember this incident.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PO Rivera claimed that § 87(2)(b) was cursing, yelling, and “being disrespectful,” but was unable to specify what profanities § 87(2)(b) used or how she was being “disrespectful.” § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) identified PO Rivera by her last name as the officer who grabbed her by the arm and led her to the wall of the building at the beginning of the incident. § 87(2)(b) also identified PO Velazquez from a photo array as the driver of the unmarked car in which PO Rivera and a Hispanic male officer (identified by the investigation as PO Perez) were traveling. Although § 87(2)(b) did not recognize a photograph of PO Perez during the photo array, PO Perez’s memo book confirms that he was in an unmarked car with PO Velazquez and PO Rivera. § 87(2)(b), § 87(2)(g)

Sgt. Garcia and PO Lambert, the only other officers who remembered interacting with § 87(2)(b) were not present for her initial stop. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PO Burgos did not remember conducting the strip search, Sgt. Garcia denied authorizing a strip search, and there was no notation of a strip search in the command log.

Note Regarding the Pleading of Allegations

Although § 87(2)(b) stated that she addressed her request for names and shield numbers to all three of the officers who stopped her, she stated that PO Perez was the only officer to acknowledge this request in any way. § 87(2)(g)

Recommended Dispositions

Allegation A: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Edwin Perez stopped § 87(2)(b)

Allegation B: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Jeannette Rivera stopped § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation C: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Edwin Perez searched the property of § 87(2)(b)

Allegation D: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Jeannette Rivera searched § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation E: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Jeannette Rivera strip-searched § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

On May 13, 2004, the Chief of the Department issued a “finest message” clarifying the conditions under which strip searches may be conducted by NYPD officers. The first paragraph of this message reads as follows:

All members of the service are reminded that under Patrol Guide Section 208-05, a strip search of a prisoner may not be conducted routinely in connection with an arrest and requires express authorization from a supervisor prior to being conducted. Any search in which an individual’s undergarments (bra, underwear, etc...) and/or private areas are exposed or in which an individual’s clothing is removed, lifted, pulled up or pulled down to expose undergarments or private areas is considered a strip search for the purposes of this procedure. [...] A strip search will be conducted by a

member of the same sex as the arrested person in a secure area in utmost privacy and with no other arrestee present (encl. 2a-b).

This message was distributed “to be read at ten (10) consecutive roll calls and posted at all commands.”

§ 87(2)(g)

PO Rivera was appointed on July 1, 2003, meaning that she has four years of tenure, three years of which were served after the issuance of the above-cited finest message. § 87(2)(b), § 87(2)(g)

Allegation F: At § 87(2)(b) and § 87(2)(b) in the Bronx, Police Officer Edwin Perez refused to provide his name and/or shield number to § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation G: Inside the 44th Precinct stationhouse, Sergeant Edson Garcia authorized the strip search of

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: